

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LaFOND JAMES HOUCK,

Plaintiff,

04cv0507

v.

WILLIAM STICKMAN, ET AL.,

Defendants.

MEMORANDUM AND ORDER

Before the Court are: petitioner's Motion for Reconsideration of Judgment Pursuant to Fed.R.Civ.P. 59(e) and Local Rule 7.1(g) (Document No. 29), which requests this Court to reconsider its Order of August 16, 2005, adopting the Report and Recommendation (R&R) of United States Magistrate Judge Lisa Lenihan, denying his petition for a writ of habeas corpus, and denying a certificate of appealability; and petitioner's Motion for Extension of Time to File Notice of Appeal (Document No. 30), which requests this Court to enlarge his time for appeal from that Order or at least, declare his motion for reconsideration timely so as to invoke the tolling provisions of the federal rules of appellate procedure, and to notify him "of the time in which a notice of appeal should be filed."

As to the motion to enlarge the time for appeal, this is a matter of the jurisdiction of the United States Court of Appeals for the Third Circuit, and this Court has no authority to enlarge or modify that Court's jurisdiction. Accordingly,

the Motion for Extension of Time to File Notice of Appeal (Document No. 30) is

HEREBY DENIED.

However, the Court notes that petitioner's motion for reconsideration appears to have been timely filed pursuant to Local Rule 9.3 and Fed.R.App. 4(A)(4)(a)(iv), and thus, he would

have thirty days from the date of this Order (which will deny his motion for reconsideration) within which to perfect his appeal to the Court of Appeals. *See, e.g., United States v. Fiorelli*, 337 Fed.3d 282, 288 (3d Cir. 2003) (untimely motion for reconsideration does not toll time to appeal denial of habeas corpus relief).

As for the motion for reconsideration, it merely repackages the same legal arguments and precedents he raised in his objections, amended objections, and supplement to amended objections to the R&R, and offers no convincing reasons why this Court should alter its judgment made after due consideration of his objections and the Magistrate Judge's R&R.

Accordingly, petitioner's Motion for Reconsideration of Judgment Pursuant to Fed.R.Civ.P. 59(e) and Local Rule 7.1(g) (Document No. 29) is **HEREBY DENIED**.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All counsel of record as listed below

Judge Lisa Pupo Lenihan

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